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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/092,057      | 03/05/2002  | Marcel Hofsass       | 4965-000124         | 7828             |

27572 7590 01/21/2004

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EXAMINER

NGUYEN, DONGHAI D

ART UNIT PAPER NUMBER

3729

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                   |                 |  |
|------------------------------|-------------------|-----------------|--|
| <b>Office Action Summary</b> | Applicant No.     | Applicant(s)    |  |
|                              | 10/092,057        | HOFSASS, MARCEL |  |
|                              | Examiner          | Art Unit        |  |
|                              | Donghai D. Nguyen | 3729            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 7 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
     a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Amendment***

1. The proposed reply filed on November 14, 2003 has been entered as Paper No. 9.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-4 and 7 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US Patent No. 4,622,739 to Pejouhy et al.

Pejouhy et al. disclose a process for producing a temperature-dependent switch, comprising the following steps: placement of the switching mechanism (30, 32, 34; etc.) in a lower part of the housing (14), closing of the lower part with a cover part (26) while forming at least one join (20), pressing, "stamping", on (col. 4, lines 7-20) of an adhesive layer (24) in the region of the join in order to seal the join, and allowing the adhesive layer to cure (col. 4, lines 39-41).

In the extent, Applicant disagrees that Pejouhy et al utilize stamping on of adhesive layer. It would have been an obvious matter of design choice to one having ordinary skill in the art at the time the invention was made to stamp on of adhesive layer, since the equivalence of stamping, pressing, crimping, and clamping for their use in deforming the elastic material in sealing are well known in the art and the select of any of these known equivalents to seal the

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cover part to the lower part of the housing would be within the level of ordinary skill in the art. Furthermore, merely state “stamping” does not preclude pressing, crimping, welding, and clamping on of the adhesive layer in order to seal the join because pressing, crimping, welding, clamping and “stamping” have the same function to seal the cover part to the lower part of the housing.

Regarding to claims 2 and 3, Pejouhy et al disclose the switch is heated before and after the stamping on of the adhesive layer (col. 4, line 1-7).

Regarding claim 4, see Col. 4, lines 65 to col. 5, line 2.

Regarding claim 7, see Figs. 2 and 5

#### ***Allowable Subject Matter***

4. Claims 14-20 are allowed.

5. The following is an examiner’s statement of reasons for allowance: a method for producing a temperature-dependent switch is not taught by the prior art of record. The prior art of record fails to show, teach or suggest, alone or in conjunction, all the claimed limitation such as the stamp is dipped with its end face into supply container to take up adhesive then press its end face into the join.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

***Response to Arguments***

6. Applicant's arguments filed November 14, 2003 have been fully considered but they are not persuasive.

Applicant argues that Pejouhy's gasket 24 is not an adhesive layer. The Examiner disagrees since Col. 3, lines 39-55 of Pejouhy discloses gasket 24 is a multilayer material, which has thermoplastic adhesive material (50, 52 in Fig. 6)

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., conductive lower part 14, conductive cover part 17, a separate insulating layer 34 being independent from and in addition to adhesive layer 32 or adhesive droplet 35 as well as the limitation of the adhesive is stamped from the outside onto the switch join) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donghai D. Nguyen whose telephone number is (703) 305-7859. The examiner can normally be reached on Monday-Friday (9:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

DN

A handwritten signature in dark ink, appearing to read 'PETER VO', with a long, sweeping horizontal line underneath it.

PETER VO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700